

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DAVID MELAMED, M.D.,)	
)	
Plaintiff,)	
)	
-vs-)	Case No: 08 CV 1745
)	
JOHN T. GIRARDI, M.D. and MEDICAL)	Judge Hibbler
SPECIALISTS, LTD., an Illinois)	
Corporation,)	Magistrate Judge Keys
)	
Defendants.)	

DEFENDANTS' RULE 12(b)(6) MOTION TO DISMISS

Defendants, John T. Girardi, M.D. ("Girardi") and Medical Specialists, Ltd. ("Medical Specialists") (collectively Girardi and Medical Specialists are referred to as "Defendants"), through their counsel, move to dismiss Count II of Plaintiff's Complaint pursuant to Fed. R. Civ. P. 12(b)(6).

Plaintiff has filed a Complaint against Defendants alleging breach of contract (Count I), violation of the Illinois Wage Payment and Collection Act (Count II) and a request for attorneys' fees (Count III). Defendants are entitled to dismissal of Count II with prejudice because Plaintiff never performed any work for Defendants. Defendant Medical Specialists also requests ten days from decision on this Motion to file its answer to Counts I and III of Plaintiff's Complaint.

For these reasons, and the reasons set forth in the accompanying Memorandum of Law, Defendants are entitled to dismissal with prejudice of Count II of Plaintiff's Complaint, and for additional time for Defendant Medical Specialists to file its answer to Counts I and III.

WHEREFORE, Defendants respectfully request that this Court grant their Motion to Dismiss Count II of Plaintiff's Complaint with prejudice, permit Defendant Medical Specialists

ten days after decision on this Motion to file its answer to Counts I and III of Plaintiffs Complaint and award to Defendants such further relief as this Court deems just and equitable.

Dated: May 12, 2008

Respectfully submitted,

/s/Stacey L. Smiricky

One of the Attorneys for John T. Girardi, M.D.,
and Medical Specialists, Ltd.

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CERTIFICATE OF SERVICE

I hereby certify that on May 12, 2008, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Joel D'Alba
Asher, Gittler, Greenfield & D'Alba, Ltd.
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/s/ Stacey L. Smiricky